

COMMISSIONERS APPROVAL

LUND *BLE*

THOMPSON *at*

CHILCOTT *g*

TAYLOR (Clerk & Recorder)

Date.....January 10, 2006

Members Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board held an interview with Gary Shook for the Planning Board position.

The Board met for a Request for Commission Action on the Schrage Subsequent Minor Subdivision (Lease or Rent issue). Present at this meeting were Planners Ben Howell and Renee Van Hoven, Mr. and Mrs. Schrage, who are the Developers to this project, and Terry Nelson, who represents the Developers.

Ben presented a power point presentation and entered the Request for Commission Action into the record as follows:

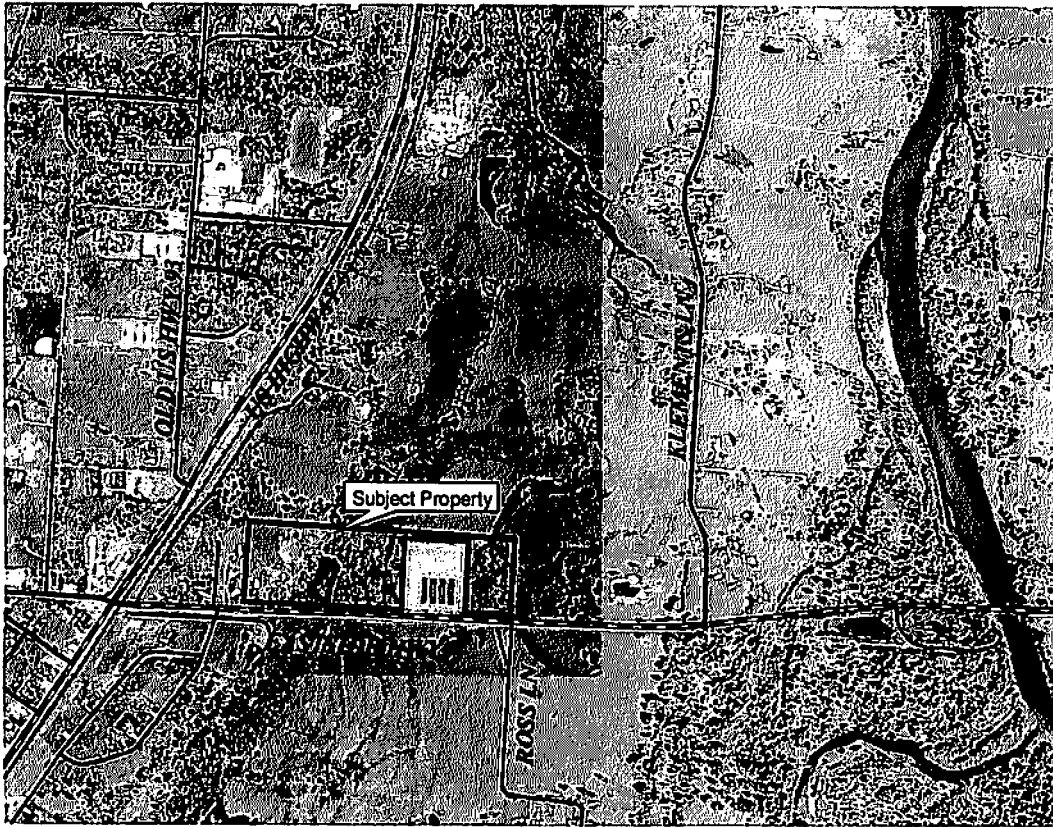


REQUEST FOR COMMISSION

ACTION

OG-05-12-1296

Site Visit: January 3, 2006 @ 4:00 p.m.
Meeting: January 10, 2006 @ 9:00 a.m.
Request: To act on the Schrage Addition, Tract 2, AP Subsequent Minor Subdivision and Subdivision for Lease or Rent on Lot B3 with One Variance Request.



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

III. PLANNING BOARD RECOMMENDATION

The Ravalli County Planning Board conducted a public hearing on this proposal on December 7, 2005 and took the following actions:

The Board chose not to review the variance criteria beyond their discussion and the analysis in the staff report. The Board made a motion to **approve** the variance request, based on the finding that the County's Professional Engineer wrote a letter in support of the variance. **The Board voted 6-0 to approve this motion.**

The Board chose not to review the subdivision criteria beyond their discussion and the analysis in the staff report. The Board made a motion to **approve** the subdivision with the recommendation that cash-in-lieu of parkland dedication be met by preserving the wetlands and One Horse Creek, as allowed by MCA 76-3-621(6)(b)(1) and based on the findings that the applicants have previously participated in the Florence Park District. Condition #4 shall be amended to state that an encumbrance of \$250 be made to the Florence-Carlton School District upon first conveyance of Lot B1 and Lot B2 and Condition #5 shall be amended to state that an encumbrance of \$500 be made to the Florence Rural Fire

District upon first conveyance of Lot B1 and Lot B2. The Board also recommended that Condition #9 be amended as recommended by the Planning Department. **The Board voted 6-0 to approve this motion.**

Comments from the meeting are contained in the record.

V. PLANNING BOARD'S RECOMMENDED MOTIONS

(Changes to staff's recommended motion is in underline/~~strikeout~~.)

1. That the variance request from Section 5-4-5(a) & Table 5-4-2 of the Ravalli County Subdivision Regulations, to allow Schrage Court to meet County standards with the exception of a 55-foot wide road easement and a 50-foot curve radius ~~be denied~~ **approved**, ~~based on the findings of fact in the staff report based on the finding that the County's Professional Engineer wrote a letter in support of the variance.~~
2. That the Schrage Addition, Tract 2, AP Subsequent Minor Subdivision and Subdivision for Lease or Rent on Lot B3 ~~be approved~~, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report, with the recommendation that cash-in-lieu of parkland dedication be met by preserving the wetlands and One Horse Creek, as allowed by MCA 76-3-621(6)(b)(1) and based on the findings that the applicants have previously participated in the Florence Park District. Conditions #4, 5, and 9 shall be amended as stated herein.

VI. PLANNING BOARD'S AND STAFF'S RECOMMENDED CONDITIONS

(Changes to staff's recommended motion is in underline/~~strikeout~~.)

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous.
(*Effects on Agriculture*)

Notification of Road Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain Schrage Court, the private road providing access to this subdivision and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement was filed with this subdivision and outlines what parties are

responsible for road maintenance and under what conditions. (*Effects on Local Services & Effects on Public Health & Safety*)

Lots within this subdivision do not have the right to take irrigation water out of One Horse Creek. This property does not have water rights. Taking water without a water right for irrigation purposes is illegal. (Effects on Agricultural Water User Facilities)

Limitation of Access onto a State Road. A "no ingress/egress" restriction is located along the Eastside Highway frontage of the subdivision, which precludes vehicular access onto this State-maintained road, excepting the approved approach for Schrage Court. This limitation of access may be lifted or amended with approval of the County. (*Effects on Local Services & Effects on Public Health and Safety*)

Notification of No-Build/Alteration Zones. Within this subdivision there are no-build/alteration zones on Lot B3. No new structure, with the exception of fences, may be constructed in these areas. No fill may be placed within these areas. (A reduced copy of the plat showing the no-build/alteration zones shall be attached to the Notifications Document). (*Effects on Natural Environment*)

2. Protective covenants to be filed with the final plat shall include the following provisions:

Living with Wildlife. (See Exhibit A-1 of the staff report for required provisions.) (*Effects on Agriculture, Effects on Wildlife and Wildlife Habitat*)

Riparian Area Use. (See Exhibit A-1 of the staff report for required provisions.) (*Effects on Natural Environment*)

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to creating and/or improving a community water or wastewater treatment system and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

Access Requirements for Lots within this Subdivision. The Florence Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6",

maximum grade of 6%, and an all weather surface that can accommodate the weight of a fire truck to meet requirements of the Uniform Fire Code. Please contact the Florence Rural Fire District at PO Box 721, Florence, MT, for further information on the requirements of the Florence Rural Fire District and/or the Uniform Fire Code. (*Effects on Local Services & Effects on Public Health and Safety*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Florence Rural Fire District has adopted the Uniform Fire Code which requires the lot owners to post the County-issued addresses at the intersection of the driveways leading to both of the residences and Schrage Court as soon as construction on the residences begins. (*Effects on Local Services & Effects on Public Health and Safety*)

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (*Effects on Natural Environment*)

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). (*Effects on Natural Environment*)

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. (*Effects on Public Health & Safety*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. (*Effects on Public Health and Safety*)

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval.

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
4. ~~The applicants shall provide evidence that a financial contribution (to be decided by the Planning Board) has been contributed to the Florence Carlton School District prior to final plat approval.~~ An encumbrance of \$250 per lot for Lots B1 and B2 to be paid to the Florence-Carlton School District upon first conveyance of each lot, including lease or rent, shall be on the final plat. *(Effects on Local Services)*
5. The applicants shall provide a letter from the Florence Rural Fire District stating that they have provided the required 1,000 gallons per minute water supply or 2,500 gallons per minute water storage for fire protection for each lot within this subdivision. ~~Alternatively, the applicants may provide evidence of a \$500 per lot contribution made to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection.~~ an encumbrance of \$250 per lot for Lots B1 and B2 to be paid to the Florence Rural Fire District upon first conveyance of each lot, including lease or rent, shall be on the final plat. *(Effects on Local Services - Fire Protection & Effects on Public Health and Safety)*
6. The applicants shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision, in accordance with E-911 addressing policy. *(Effects on Local Services & Effects on Public Health and Safety)*
7. The applicants shall install a stop sign at the intersection of Schrage Court and Eastside Highway, subject to review and approval of the Planning Department, in consultation with the Road Department and MDT. *(Effects on Local Services & Effects on Public Health & Safety)*
8. The final plat shall show a no ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approach for Schrage Court approved by the Montana Department of Transportation. *(Effects on Local Services & Effects on Public Health & Safety).*

9. The applicants shall provide a copy of the approved operation permit and the approved reclamation ~~permit~~ plan from the DEQ-Open-cut Mining Program, and a copy of the final inspection report from DEQ. The applicants shall also provide evidence that they have contacted any interested agencies, including but not limited to DEQ, the Bitterroot Conservation District and the US Army Corps of Engineers. The DEQ permit shall reflect that the current owners of Lot B3 are the only users of the gravel pit. (Effects on Natural Environment & Local Services)
10. The developers shall provide evidence, such as a permit or water right, with the final plat submittal that the pond located on Lot B3 near One Horse Creek is permitted by the DNRC. *(Effects on Agricultural Water User Facilities & Natural Environment)*.
11. The No-Build/ Alteration zone on Lot B3 as shown on the preliminary plat shall be shown on the final plat. *(Effects on Natural Environment)*
12. The developers shall hire a Wetlands Specialist to conduct a wetlands delineation and submit the delineation prior to final plat submittal. The wetlands that are delineated shall be shown and designated on the final plat as no-build/alteration zones.

REMAINING ISSUES: None.

FISCAL IMPACT: No extraordinary fiscal impacts noted.

ATTACHMENTS: Application package
Staff Report with attachments
Planning Board meeting minutes for the December 7, 2005 public hearing (includes additional comment letter, staff memo and attachments)

STAFF: Benjamin H. Howell

DATE: December 30, 2005

Commissioner Lund read the following statement:

Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

Public comment was called for.

Terry Nelson indicated in the previous subdivision the Board did not want to have two accesses. They now have one access, but needed a variance for the width, due to the existing shed and curve radius.

Mr. Schrage expressed concern with the fire contribution. Across from his house there is a large sump that the fire department installed. He asked why he should have to 'pay on top of this'. His taxes already pay for their equipment and it is at the highest rate in the County. This sump provides plenty of water and it is only 200 yards from his property.

Commissioner Chilcott stated this is a standard fee for equipment, training, etc., and the money helps supplement the department. Commissioner Thompson stated they would not have to pay any money if he provides 2,500 gallons of water.

No one spoke in opposition. Public comment was closed.

Board deliberation now took place. Commissioner Lund stated on page 5 of the Request for Commission Action, it reads \$250.00 per lot for the fire district. She stated it should read \$500.00. Ben stated that is a typographical error and it will be corrected.

Commissioner Lund asked about the man-made pond on the Schrage Property. Mrs. Schrage stated it is more than several feet deep. Commissioner Lund suggested this pond would provide the amount of water necessary, and no money would be needed. Renee stated the water flow amount could be certified at the time of final plat.

It was noted this subdivision is still under the old regulations.

Commissioner Lund asked about the park contribution. Renee stated they recommend they have a wetland delineation done, for a no-build zone and that can be utilized as a parkland dedication. Mr. Schrage stated DEQ protects the wetlands, and he is not able to do anything with that land. Terry stated that would be a simple delineation of the land.

Commissioner Thompson stated the site distance is cleared up. The variance in regard to the curve radius is appropriate for a two-lot subdivision. He also concurred the wetland should be saved and delineated for the parkland dedication.

Commissioner Chilcott asked about the trailer on lot B-3 and felt that lot should have a school contribution of \$250.00. He also addressed the variance request and the letter from Florence Rural in regard to the roads being at County standards. Ben stated they did not obtain any specific comments from the fire district, particularly in regard to the curve radius. Mrs. Schrage stated they could pull their motor home into the shed so the curve is wide enough to get any equipment in that is needed.

On number 8, effects of local services: Commissioner Lund advised Ben to remove the word 'application'.

Renee also stated the findings need to show that public service is available for this proposed subdivision.

Commissioner Lund asked if they need a wetlands specialist, since they delineated the area. Commissioner Chilcott stated the specialist should define the area. Terry asked if they should obtain a letter from the Army Corp of Engineers. Renee stated the Corp would not show a boundary. Renee stated the Corp only looks at jurisdictional wetlands. Staff would recommend that a wetland specialist go on site and delineate a boundary. Terry stated the issue there is the cost, particularly since there is such a drop-off in terrain. Commissioner Thompson said, since the wetland is to be used as a parkland dedication, and since the parkland is a percentage, he finds the cash donation is specified at \$3,100.00 under No. 13. Therefore, they can accept the money or accept the wetlands as the parkland dedication, but the boundaries need to be identified. He stated the Schrages could hire a wetland specialist or pay the \$3,100.00.

Commissioner Lund asked if they were paying school taxes on the trailer. Mr. Schrage stated they have been paying taxes on this trailer for the past year. Mrs. Schrage stated an elderly woman lives there; the trailer was set up prior to Civil Counsel's discussion on the lease or rent issue. Commissioner Chilcott stated the elderly person may not always rent the trailer and a family could move in. Also, they have only paid one year of taxes. Commissioner Thompson asked since it exists, do they review the length of time, and how would they go about determining that time frame? Commissioner Chilcott stated he is simply looking at the impact fee and it is a relatively new structure. Commissioner Thompson stated he agrees, but to determine a time frame would be difficult. Commissioner Chilcott stated he does not want to set a precedent. Terry stated the Board heard this subdivision in December of 2004, and in January, 2005, the lot was flagged for the trailer. Commissioner Thompson stated this is a unique situation, as this subdivision has been brought back for decision at this time. Therefore, this should be treated as a new development since the subdivision process began. Therefore, he would concur with Commissioner Chilcott and stated the contribution should be paid on this lot. Mrs. Schrage stated they did not know about the law and they are trying to be legal. Now they are being punished because of the trailer. Commissioner Thompson stated he is simply looking at the law. Commissioner Chilcott stated the trailer has already been conveyed. Terry stated this is an exaction fee, and the writer of the law stated this law was not supposed to be an exaction law. Commissioner Thompson stated the mitigation of this subdivision is curve radius, etc., and they are allowing that variance, but in this regard they will require the school contribution. Commissioner Chilcott stated the Florence School District is looking at a \$5,000-\$7,000.00 impact fee, and this \$250.00 is a real bargain.

Commissioner Lund asked if they needed to amend the cash-in-lieu issue under the findings under No. 12 of the staff report. Commissioner Chilcott and Commissioner Thompson concurred.

Commissioner Lund made a motion that the variance request from Section 5-4-5(a) & Table 5-4-2 of the Ravalli County Subdivision Regulations, to allow Schrage Court to

meet County standards with the exception of a 55-foot wide road easement and a 50-foot curve radius be approved, based on the finding that the County's Professional Engineer wrote a letter in support of the variance, and further that the Schrage Addition, Tract 2, AP Subsequent Minor Subdivision and Subdivision for Lease or Rent on Lot B3 be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report, with the recommendation that cash-in-lieu of parkland dedication be met by preserving the wetlands and One Horse Creek, as allowed by MCA 76-3-621(6)(b)(1) and based on the findings that the applicants have previously participated in the Florence Park District. Conditions #4, 5, and 9 shall be amended as stated herein, and Condition #5 amended to a contribution of \$500.00 per lot for Lot B-1 and B-2 at the time of first conveyance, and \$500.00 for lot B-3 at the time of final plat, and Condition #4 amended with a \$250.00 school contribution at the time of final plat for lot B-3 and \$250.00 for Lots B-1 and B-2 at first conveyance.

Commissioner Thompson seconded the motion.

Discussion: Ben stated he would like more findings for the variance. Commissioner Chilcott noted the fire department had no comment. And the WGM letter meets the amended regulations for the road standards. The Board of County Commissioners concurred.

All voted "aye".

In other matters the Board addressed various administrative matters that included the following:

Commissioner Thompson made a motion to grant final approval to the Mountain View Orchards Block 5, Lot 21A, based on the recommendation by the Planning Staff. Commissioner Lund seconded the motion and all voted "aye".

Commissioner Lund made a motion to grant final approval of the Whispering Willow Estates Subdivision. Commissioner Thompson seconded the motion and all voted "aye".

The Board also reviewed the Department of Transportation Highway Amenities Agreement for the Woodside Project. Discussion included the length of the sidewalk and pathway and the snow clearing within 24 hours. It was noted the amenities agreement in the Stevensville area has a snow removal requirement within 72 hours. Commissioner Thompson suggested they contact the Department of Transportation in order to specify that the snow will be removed within 72 hours, not 24 hours.

The Board met to review the Certificate as to the Resolution and Adopting Vote for the \$650,000.00 general obligation note and Resolution, relating to the \$650,000.00 General Obligation Note, Series 2006; Authorizing the Issuance Awarding the Sale, Determining the Form and Details, Authorizing The Execution and Deliver and Making Appropriation for the Payment Thereof (this note is for loan monies from First Interstate Bank for the construction of the Event Pavilion Center at the Fairgrounds). Mae Nan Ellingson of

Dorsey & Whitney LLC completed these documents. Stacey Lear of Dorsey & Whitney was put on speakerphone for comment, due to Mae Nan's absence.

Stacey stated this is a note, but the same rules of bonding apply. Stacey stated their office would prepare the Arbitrage Certification. Because the money is being obtained for public purpose, the law requires the money be obtained in the same way that bonds are received. Commissioner Lund stated these documents are required in order to obtain the bank-qualified letter. Commissioner Lund asked if the bank would still require a bank mortgage. Stacey stated that is unknown to her, but President Monte Drake of First Interstate Bank has reviewed these documents. She stated these documents actually allow the County the ability to borrow the money under the criteria of the State statutes. Stacey also noted that Monte would be responsible to fill in some of the 'blanks', such as the term of series and interest payment dates. She suggested the Commissioners contact Monte Drake for some of the information needed on the Resolution.

Monte was then put on speakerphone. He stated they were comfortable with the general obligation bonds which would not tie any mortgage on the building. He stated they would term the note out to the 20-year note and roll the construction portion into the actual note. He stated this is a fixed 10-year note and re-adjusted according to the Seattle Federal Home Loan Bank with another fixed 10-year note. The payment dates will begin after the bank-qualified letter is approved and the attorneys approve of this language. He hopes to have this contract finalized by the end of the month.

Due to numerous additions and legal review that needs to occur, the Board will review this Resolution at a later time.

In other business, the Board met with 9-1-1 Supervisor Joanna Hamilton and Administrative Assistant Glenda Wiles to review the proposed bylaws for the operation of the 9-1-1 Telecommunications Center. Commissioner Lund made a motion to create Resolution No. 1791, subject to the corrections being made and reviewed by Civil Counsel. Commissioner Thompson seconded the motion and all voted "aye".